

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PADDINGTON & COMPANY
LIMITED,
a United Kingdom company

Opposer,
v.

JULIANNE TOZER,
an individual

Applicant.

Opposition No. 91174828

In the matter of application Serial No. 78/707158
Filed: September 6, 2005
For the mark: PADDINGTON'S TEA ROOM
Published in the Official Gazette on
November 21, 2006

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

The Applicant named in the Opposition, Julianne Tozer ("Applicant"), hereby answers the Notice of Opposition ("Notice") filed by Opposer, Paddington & Company Limited ("Opposer"), as follows:

1. Answering Paragraph 1, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 1, and therefore denies each and every allegation therein.

2. Answering Paragraph 2, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 2, and therefore denies each and every allegation therein.

3. Answering Paragraph 3, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 3, and therefore denies each and every allegation therein.

4. Answering Paragraph 4, Applicant admits that it filed Application Serial No. 78/707158 identifying food and beverage products in International Class 30 (based on an intent to use) and restaurant services in International Class 43 (based on actual use from at least as early as February 14, 1985) as stated in Paragraph 4 of the Notice of Opposition. As for the remaining allegations in Paragraph 4, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegation, and therefore denies such allegation.

5. Answering Paragraph 5, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 5, and therefore denies each and every allegation therein.

6. Answering Paragraph 6, Applicant admits that the following United States Trademark Registration numbers identifying the corresponding goods and services noted below are listed in the Trademark Applications and Registrations Retrieval (TARR) database.

(a) Registration No. 2,521,183 for the mark PADDINGTON for “bed blankets, bed linen, bed sheets, bed spreads, textile wall hangings”;

(b) Registration No. 2,742,190 for the mark PADDINGTON for “pre-recorded audio cassettes featuring children's stories and/or musical programs; pre-recorded video cassettes featuring children's stories and/or musical programs; computer game cassettes; computer game programs; interactive video games of virtual reality comprised of computer hardware and software; audio cassette tapes featuring children's stories and/or musical programs”;

(c) Registration No. 2,553,767 for the mark PADDINGTON for “clothing, namely, mittens, shoes, pants, booties, clothing ties, clothing belts, scarves, coats, duffle coats, and sun visors”;

(d) Registration No. 2,656,761 for the mark PADDINGTON for “furniture, furniture mirrors, and photograph frames; seat cushions; bed frames; articles of plastic, namely, bookshelves, doorplates, coat hooks, and hangers for clothing; decorative mobiles, beds, cribs and cots, high chairs, travel cots, baby cradles, curtain rods and rails, non-metal curtain rings; and cake decorations made of plastic”;

(e) Registration No. 2,715,910 for the mark PADDINGTON for “toys, namely, board games, jigsaw puzzles; Christmas tree ornaments; Christmas tree decorations”;

(f) Registration No. 2,742,189 for the mark PADDINGTON for “clothing, namely, gloves, aprons, tabards, footwear, headwear”;

(g) Registration No. 2,659,785 for the mark PADDINGTON for “stationery writing paper and paper envelopes, cardboard containers and cardboard cartons; children's books, children's magazines and comic books, printed children's activity books, stationery, pens, pencils, markers, and crayons; pencil boxes, namely, cases for pens, pencils, erasers, rulers, and pencil sharpeners; pictures, photographs and art prints, posters, artists' brushes, painting sets, pastels, pens, and pencils; rubber stamps and ink pads, memorandum and notice boards; instructional and teaching materials for children, decalcomanias and stickers, greeting cards and postcards, book marks, paper coasters, playing cards; book ends, paper weights, decorative paper centerpieces; decorative pencil top ornaments; knitting, embroidery and clothing design patterns; calendars and diaries;

height charts; paper party hats; disposable diapers; writing pads, bookplates, wrapping paper, paper gift tags, paper table cloths paper table mats and paper table napkins, tissue paper, paper towels; paper gift bags; and cake decorations made of paper”;

(h) Registration No. 2,719,536 for the mark PADDINGTON for “porcelain plates, cups, bowls, coffee and teapots not of precious metal, ceramic mugs and ceramic money boxes; hair brushes; portable beverage dispensers; drinking glasses”;

(i) Registration No. 2,817,624 for the mark PADDINGTON for “textile and tissue piece goods, namely, fabrics for the manufacture of home furnishings, towels, dish cloths, wash cloths; flannels, wash mitts, face cloths, bed canopies, table mats not of paper, table linen, table clothes not of paper, duvet covers, pillow cases, pillow shams, table covers not of paper, table linen, namely, coasters, textile napkins, textile shopping bags, curtains, unfitted, fabric furniture covers, tapestries of textile, textile hot water bottle covers.”

Applicant denies that such registrations are owned in the name of Opposer, Paddington & Company Limited, as the registrations reflect the registrant in each registration to be simply Paddington & Company. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations in Paragraph 6, including, but not limited to, the accuracy of the Trademark Applications and Registrations Retrieval (“TARR”) database. Accordingly, Applicant denies each remaining allegation therein.

7. Answering Paragraph 7, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 7, and therefore denies each and every allegation therein.

8. Answering Paragraph 8, Applicant admits that the TARR database reflects United States Trademark Registration Number 1,431,281, registered on March 3, 1987, for the mark PADDINGTON STN for stuffed toys, reciting a first use date of 1975. Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 8, and therefore denies each and every allegation therein.

9. Answering Paragraph 9, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 9, and therefore denies each and every allegation therein.

10. Answering Paragraph 10, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 10, and therefore denies each and every allegation therein.

11. Answering Paragraph 11, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 11, and therefore denies each and every allegation therein.

12. Answering Paragraph 12, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 12, and therefore denies each and every allegation therein.

13. Answering Paragraph 13, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 13, and therefore denies each and every allegation therein.

14. Answering Paragraph 14, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 14, and therefore denies each and every allegation therein.

15. Answering Paragraph 15, Applicant denies each and every allegation contained therein.

16. Answering Paragraph 16, Applicant denies each and every allegation contained therein.

17. Answering Paragraph 17, Applicant does not have sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained in Paragraph 17, and therefore denies each and every allegation therein.

18. Answering Paragraph 18, Applicant denies each and every allegation contained therein.

19. Answering Paragraph 19, Applicant denies each and every allegation contained therein.

20. Answering Paragraph 20, Applicant denies each and every allegation contained therein.

21. Answering Paragraph 21, Applicant denies each and every allegation contained therein.

DEFENSES

Applicant alleges the following affirmative defenses:

No Likelihood of Confusion

Applicant alleges that due to the differences between Applicant's mark and Opposer's mark, the goods and services on or in connection with which the respective marks are used, and the marketing channels through which the respective goods and services are marketed, there is no likelihood of confusion, mistake, or deception between Opposer's mark and Applicant's mark.

Laches

Opposer is barred from bringing this action on the grounds of laches and/or acquiescence.

As recited in the application which is the subject of this Opposition, Applicant has used the PADDINGTON'S TEA ROOM mark in connection with its business and services for twenty-two years without objection from Opposer.


WHEREFORE, Applicant urges that the Opposition be dismissed with prejudice to the Opposer.

Please charge any necessary fees, or credit any overpayment to Deposit Account

No. 50-2191

Respectfully submitted,
RUTAN & TUCKER, LLP

Dated: 2/5, 2007

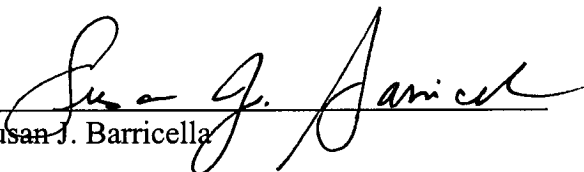
By: 
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CERTIFICATE OF SERVICE

I, Susan J. Barricella, hereby certify that a copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served upon counsel for Opposer by depositing one copy thereof in the United States Mail, first-class postage prepaid, on February 5, 2007, addressed as follows:

Pasquale A. Razzano
Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza
New York, NY 10112-3800


Susan J. Barricella